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12 ENOCH ADAMS, JR., LEROY ADAMS,
13 ANDREW KOENIG, JERRY NORTON
DAVID SWAN and JOSEPH SWAN.

Plaintiffs,

V.

TECK COMINCO ALASKA INCORPORATED

Defendant.

Case No. A04-49 (JWS)

**PLAINTIFFS' MOTION FOR
SUMMARY ADJUDICATION
OF FOUR LEGAL ISSUES**

19 NANA REGIONAL CORPORATION and NORTHWEST ARCTIC BOROUGH

Intervenors-Defendants

**DECLARATION OF LUKE COLE IN SUPPORT OF
ADAMS PLAINTIFFS' MOTION FOR SUMMARY
ADJUDICATION OF FOUR LEGAL ISSUES**

I, Luke Cole, declare:

2 1. I am over 18 years of age and not a party to this action. I am lead counsel for
3 plaintiffs.

4 2. Attached as Exhibit 1 is a true and correct copy of a letter from Randall Smith, US
5 EPA, to Robert Jacko, Teck Cominco, dated October 2, 2003, which is also Trial Exhibit 4.

6 3. Attached as Exhibit 2 is a true and correct copy of Pages 1-6 and page 39 of Teck
7 Cominco's 1998 permit, Trial Exhibit 3000.

8 4. Attached as Exhibit 3 is a true and correct copy of Teck Cominco's Response to
9 Request for Admission No. 223 in the *KRPC v. Teck Cominco* suit, stipulated for use in this suit.

10 5. Attached as Exhibit 4 are true and correct copies pages 55-57 of Teck Cominco's
11 Opposition to Motion for Partial Summary Judgment and Cross Motion for Partial Summary
12 Judgment in the *KRPC v. Teck Cominco* suit.

13 6. Attached as Exhibit 5 is a true and correct copy of page 1 of Teck Cominco's
14 September 1999 Mine Site DMR, Bates Stamped 000776.

15 7. Attached as Exhibit 6 is a true and correct copy of page 2 of Teck Cominco's July
16 2001 Mine Site DMR, Bates Stamped 001614.

17 8. Attached as Exhibit 7 are true and correct copies of pages 1-2 of Teck Cominco's June
18 2002 Mine Site DMR, Bates stamped TC 001399-1400 RD.

19 9. Attached as Exhibit 8 is a true and correct copy of page 35 of the Deposition of Mark
20 Thompson, which I took in Anchorage, AK on March 3, 2005.

21 10. EPA modified Teck Cominco's mine site permit in 2003, but chose not to address the
22 cyanide permit limitation at that time.

23 I declare under penalty of perjury that the foregoing is true and correct. Dated this 8th day
24 of February and executed at San Francisco, California.

/S/ Luke Cole
Luke Cole

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2 CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February 2008, a true and correct copy of the foregoing Declaration of Luke Cole in Support of Motion for Summary Judgment on Four Legal Issues and Proposed Order was served, via electronic mail, on the below identified parties of record:

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14
15 _____
/S/ Luke Cole

16 Luke Cole